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May 12, 2008

**VIA FACSIMILE (212) 805-7901**

Honorable Harold Baer  
United States District Judge, SDNY  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, New York 10007

Re: Ramon De Antonio Smart v. Police Officer Matthews, et al., 08 Civ. 2203 (HB)

Your Honor:

I am an Assistant Corporation Counsel in the Special Federal Litigation Division of the New York City Law Department assigned to the defense of the above-referenced matter on behalf of defendant New York City Police Department ("NYPD").<sup>1</sup> In that regard, I write to respectfully request that the Court reschedule the initial conference, from May 22, 2008 at 3:45 p.m. to a time prior to 2:30 p.m. on the same date. As background, by Order, dated April 29, 2008, this Court ordered defendant to advise the Metropolitan Detention Center ("MDC"), the correctional facility where plaintiff is located, that the facility must produce plaintiff for a telephone conference on May 22, 2008 at 3:45 p.m. Defendants complied with the Court's order. However, MDC informed this office that it cannot produce plaintiff for the conference because the correctional facility performs its inmate count from 3:30 p.m. until 5:00 p.m. According to the facility, plaintiff can be made available for the telephone conference between 9:00 a.m. and 2:30 p.m. on May 22, 2008. Accordingly, pursuant to the request of MDC, I write to respectfully request that the Court reschedule the settlement conference from May 22, 2008 at 3:45 p.m. to a time prior to 2:30 p.m. on the same date.

<sup>1</sup> Upon information and belief, the individuals named in the caption as "Police Officer Matthews," "Police Officer Filizzola," the City of New York, and the New York City Police Department 43<sup>rd</sup> Precinct have not yet been served with process.

I thank the Court for its consideration herein.

Respectfully submitted,

*Philip S. Frank*

Philip S. Frank (PF-3319)  
Assistant Corporation Counsel  
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cc: Via First Class Mail  
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*We will hear it at  
1:45 PM on May 22, 08  
for [redacted]  
so on line.  
Harold Baer, Jr., U.S.D.J.  
5/14/08  
D.W.*